IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.411 OF 2007

Ms.Shikha Pathal ..Petitioner
Vs.
The Union of India & Ors. ..Respondents

Mr.Sridharan with Mr.T.Vishvanathan with Mr.Jitendra Motwani i/b. M/s.PDS Legal for the Petitioner.
Mr.Y.S.Bhate with Mr.D.A.Dube for the Respondents.

CORAM :- DR.S.RADHAKRISHNAN &
J.P.DEVADHAR,JJ.

DATE : 21ST FEBRUARY,2007

P.C.

1. Heard the learned Counsel for the parties.

Rule. Rule is made returnable forthwith. The learned Counsel for the Respondents waives service. By consent taken up for hearing.

2. The learned Counsel for the Petitioner brought to our notice that the Order in Original was passed by the Joint Commissioner Central Excise-II on 20th September,2001. A perusal of the said order indicates that there was violation of principles of natural justice, in the sense when the matter was fixed on 12th September,2001 for hearing, and accordingly, intimation was sent by Speed Post to the Petitioner however, the Postal Authorities have returned the same with the remark "Not Known". However, the Joint Commissioner had proceeded to pass an order remarking

therein that the matter has been pending for a long period. Admittedly, the Petitioner was not given a proper notice informing the date of personal hearing and no fair opportunity of personal hearing was given to the Petitioner and hence there is a violation of principles of natural justice. Thereafter even the Commissioner (Appeals) by his order dated 8th September,2005 and also the CESTAT by its order dated 31st January,2006 had declined to interfere.

3. Under these facts and circumstances, only on this limited ground that no opportunity of personal hearing was given, we are inclined to quash and set aside all the above impugned orders in this Petition. Accordingly, Rule is made absolute in terms of prayer clauses (a),(b) and (c).

4. The learned Counsel for the Petitioner states that the Petitioner is ready and willing to appear before Respondent No.4 for a fresh adjudication on 12th March,2007 at 11.00 a.m. The learned Counsel for the Respondents undertakes that he will inform Respondent No.4 that the matter should be taken up for the purpose of fresh adjudication on 12th March,2007.

Rule is made absolute accordingly.

(J.P.DEVADHAR,J.) **(DR.S.RADHAKRISHNAN,J.)**